

**Fiscal Year 2003
Statutory Review of Disclosure of Collection
Activity With Respect to Joint Returns**

May 2003

Reference Number: 2003-40-110

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

May 7, 2003

MEMORANDUM FOR COMMISSIONER EVERSON

Gordon C. Milbourn III

FROM: Gordon C. Milbourn III
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report - Fiscal Year 2003 Statutory Review of
Disclosure of Collection Activity With Respect to Joint Returns
(Audit # 200340001)

This report presents the results of our review to determine if the Internal Revenue Service (IRS) is in compliance with Internal Revenue Code Section (I.R.C. §) 6103(e)(8) (Supp. IV 1998)¹ related to the disclosure of collection activities to joint filers.

In summary, we could not determine if the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to all written information requests from joint filers. This is the fifth year in which we have reported our inability to give an opinion on the IRS' compliance with the provisions of I.R.C. § 6103(e)(8).

The Treasury Inspector General for Tax Administration is required under I.R.C. § 7803(d)(1)(B) (Supp. IV 1998) to annually evaluate the IRS' compliance with the joint filer request provisions of the law. IRS management information systems do not separately record or monitor joint filer requests, and the Congress has not explicitly required the IRS to do so. Furthermore, we do not recommend the creation of a separate tracking system. Accordingly, we are making no recommendations in this report.

Management's Response: IRS management continues to support their determination to not develop a management control process to track joint filer information requests. Since IRS management believes that repeatedly addressing the issue is burdensome, the Office of Legislative Affairs has drafted a legislative proposal for the Congress to

¹ I.R.C., as amended by the Trade Act of 2002, Pub. L. No. 107-210, 116 Stat. 933, the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21, the Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, 115 Stat. 2427 (2002), and the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763.

consider repealing I.R.C. § 7803(d)(1)(B). The proposal will soon be transmitted to the Department of the Treasury in hopes it will support and forward the proposal to the Congress. Management's complete response to the draft report is included as Appendix IV.

Copies of this report are also being sent to the IRS managers who are affected by the report. Please contact me at (202) 622-6510 if you have questions or Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 927-0597.

**Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity
With Respect to Joint Returns**

Table of Contents

Background	Page 1
Compliance With Statutory Requirements for the Disclosure of Collection Activity With Respect to Joint Returns Cannot Be Determined.....	Page 3
Appendix I – Detailed Objective, Scope, and Methodology	Page 4
Appendix II – Major Contributors to This Report.....	Page 5
Appendix III – Report Distribution List	Page 6
Appendix IV – Management’s Response to the Draft Report	Page 7

**Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity
With Respect to Joint Returns**

Background

The Taxpayer Bill of Rights 2 (TBOR2)¹ added Internal Revenue Code Section (I.R.C. §) 6103(e)(8) (Supp. IV 1998),² which gives joint filer taxpayers who are no longer married or no longer reside in the same household the right to receive information regarding the Internal Revenue Service's (IRS) efforts to collect delinquent taxes on their joint return liabilities. The procedures in I.R.C. § 6103(e)(8) require that the IRS provide, in writing, collection activity information to joint filers if they send in a written request. After passage of the TBOR2, the IRS Disclosure Office issued procedures which stated that if I.R.C. § 6103(e)(8) is not specifically cited in the request, the IRS can provide either an oral or written response, based upon I.R.C. § 6103(e)(7) (1994).

The IRS Restructuring and Reform Act of 1998 (RRA 98)³ added I.R.C. § 7803(d)(1)(B) (Supp. IV 1998), which requires the Treasury Inspector General for Tax Administration to review and certify annually whether the IRS is complying with the requirements of I.R.C. § 6103(e)(8).

The RRA 98 required both the Department of the Treasury and the Joint Committee on Taxation (JCT) to complete separate studies of the scope and use of provisions regarding taxpayer confidentiality. The JCT issued its study report in January 2000 and recommended I.R.C. § 6103(e)(8) be amended to allow for both oral and written information requests from joint filers. The Department of the Treasury issued its study report in October 2000 with a similar recommendation to eliminate the requirement that joint filer

¹ Taxpayer Bill of Rights 2, Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

² I.R.C., as amended by the Trade Act of 2002, Pub. L. No. 107-210, 116 Stat. 933, the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21, the Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, 115 Stat. 2427 (2002), and the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763.

³ IRS Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity With Respect to Joint Returns

information requests be in writing. The Department of the Treasury's report also suggested that our reporting requirement regarding joint filer requests be phased out.

In response to a recommendation in our Fiscal Year 1999 audit report,⁴ the IRS agreed to perform separate analyses by January 2001 in the former National Headquarters Collection and Customer Service functions to determine the volume of written joint filer requests received. IRS management stated that they would use the outcome of these analyses to determine if a centralized management control process to track joint filer requests was warranted.

Due to the low volume of requests identified during the Collection study, the former National Headquarters Customer Service function did not perform its analysis. In May 2001, management in the Small Business/Self-Employed and Wage and Investment Divisions⁵ decided not to develop a new management control process to track joint filer information requests.

We performed our review in the IRS National Headquarters in Washington, D.C., at the Small Business/Self-Employed and Wage and Investment Divisions and the Office of the National Taxpayer Advocate, during the months of February and March 2003. This audit was performed in accordance with *Government Auditing Standards*. Detailed information on the audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

⁴ *The Internal Revenue Service's Procedures for Responding to Written Requests for Collection Activity From Joint Filers Vary From Statutory Requirements* (Reference Number 1999-10-077, dated September 1999).

⁵ The Small Business/Self-Employed and Wage and Investment Divisions were created by the reorganization of the IRS. Components of the former Collection and Customer Service Divisions were made part of these divisions.

**Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity
With Respect to Joint Returns**

**Compliance With Statutory
Requirements for the Disclosure
of Collection Activity With
Respect to Joint Returns Cannot
Be Determined**

We could not determine if the IRS fully complied with I.R.C. § 6103(e)(8) requirements when responding to all written requests from joint filers because of our inability to identify joint filer requests received nationwide. In fact, this is the fifth year in which we have reported our inability to give an opinion on the IRS' compliance with the provisions of I.R.C. § 6103(e)(8). This condition occurred because the IRS' management information systems do not separately record or monitor joint filer requests.

During this review, management from the Small Business/Self-Employed and Wage and Investment Divisions commented that the IRS' position has not changed from last year and the IRS does not plan to implement a system to identify or track joint filer requests for collection activity. In addition, there is no statutory or regulatory requirement for the IRS to develop a separate system that records or monitors these requests. We do not recommend the creation of a separate tracking system and are, therefore, making no recommendations in this report.

Management's Response: IRS management continues to support their determination to not develop a management control process to track joint filer information requests. Their response stated that since repeatedly addressing the issue is burdensome, the Office of Legislative Affairs has drafted a legislative proposal for the Congress to consider repeal of I.R.C. § 7803(d)(1)(B). The proposal will soon be transmitted to the Department of the Treasury in hopes it will support and forward the proposal to the Congress.

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine if the Internal Revenue Service (IRS) is in compliance with Internal Revenue Code Section (I.R.C. §) 6103(e)(8) (Supp. IV 1998)¹ related to the disclosure of collection activities to joint filers. To accomplish our objective, we:

- I. Obtained confirmation from the Small Business/Self-Employed and Wage and Investment Divisions that the IRS does not have, nor does it plan to implement, a system or process to identify or track joint filer requests for collection information relating to the requirements of I.R.C. § 6103(e)(8).
- II. Interviewed personnel in the offices of the National Taxpayer Advocate, the IRS Commissioner's Executive Control Management System, and the Treasury Inspector General for Tax Administration to determine if there is a system or process that tracks taxpayer complaints relating to the requirements of I.R.C. § 6103(e)(8).

¹ I.R.C., as amended by the Trade Act of 2002, Pub. L. No. 107-210, 116 Stat. 933, the Job Creation and Worker Assistance Act of 2002, Pub. L. No. 107-147, 116 Stat. 21, the Victims of Terrorism Tax Relief Act of 2001, Pub. L. No. 107-134, 115 Stat. 2427 (2002), and the Community Renewal Tax Relief Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763.

**Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity
With Respect to Joint Returns**

Appendix II

Major Contributors to This Report

Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs)

Augusta R. Cook, Director

Paula W. Johnson, Audit Manager

Lynn Faulkner, Senior Auditor

Kristi Larson, Senior Auditor

Sharon Summers, Senior Auditor

M. Jean Bell, Auditor

**Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity
With Respect to Joint Returns**

Appendix III

Report Distribution List

Deputy Commissioner N:DC
Commissioner, Small Business/Self-Employed Division S
Commissioner, Wage and Investment Division W
Director, Compliance, Small Business/Self-Employed Division S:C
Director, Compliance, Wage and Investment Division W:CP
Director, Customer Account Services, Small Business/Self-Employed Division S:CAS
Director, Customer Account Services, Wage and Investment Division W:CAS
Director, Strategy and Finance W:S
Chief, Customer Liaison S:COM
Chief Counsel CC
National Taxpayer Advocate TA
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
Office of Management Controls N:CFO:AR:M
Audit Liaisons:
 Executive Assistant, Director, Communications and Liaison CL
 Director, Compliance, Small Business/Self-Employed Division S:C
 Director, Compliance, Wage and Investment Division W:CP
 Director, Customer Account Services, Small Business/Self-Employed Division S:CAS
 Director, Customer Account Services, Wage and Investment Division W:CAS

**Fiscal Year 2003 Statutory Review of Disclosure of Collection Activity
With Respect to Joint Returns**

Appendix IV

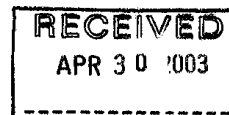
Management's Response to the Draft Report



CHIEF COMMUNICATIONS
AND LIAISON

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

April 30, 2003



MEMORANDUM FOR PAMELA J. GARDINER
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: David R. Williams *DWR*
Chief, Communications and Liaison

SUBJECT: Draft Audit Report: Compliance with Statutory
Requirements for the Disclosure of Collection Information
to Joint Filers Cannot be Determined (Audit #200340001)

I have reviewed your draft audit report concerning the annual review and certification of Internal Revenue Service (IRS) compliance with the requirements of 26 U.S.C. section 6103(e)(8). As you noted, you do not recommend that we create a separate management system to track joint filer requests and we concur with that determination.

This provision continues to put a burden on both of our staffs to repeatedly address the issue. To alleviate the need for TIGTA to annually review and certify compliance with joint filer information requests, the Office of Legislative Affairs drafted a legislative proposal for the Congress to consider repeal of 26 U.S.C. section 7803(d)(1)(B) (Supp IV 1988). The proposal will soon be transmitted to the Treasury Department, and I hope they will support it and forward it to the Congress.

I appreciate your continued support of our action plan and will keep you apprised of the status of the legislative proposal. If you have any questions or concerns, please contact me at (202) 622-5440.